

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMICHAH OHRING, individually and
on behalf of others similarly situated,

Plaintiff,

v.

UNISEA, INC.,

Defendant.

C21-0359 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) According to the Settlement Administrator, twelve (12) individuals have excluded themselves from the Alaska Wage and Hour Act (“AWHA”) Class in this matter. See Salinas Decl. at ¶ 18 & Ex. I (docket nos. 84 & 88). Six (6) of the people who submitted AWA opt-out forms, however, also completed opt-in forms so that they could participate in the settlement of the related Fair Labor Standards Act (“FLSA”) collective action. Compare Ex. I to Salinas Decl. (docket no. 88 at 9 & 11–15) with Ex. J to Salinas Decl. (docket no. 89 at 88–89, 109, 119, 130, 153, & 156). In addition, another individual submitted both an FLSA opt-in form and an AWA opt-out form, but the latter form was not signed, and the Settlement Administrator has apparently disregarded it. See Ex. J to Salinas Decl. (docket no. 89 at 32–36). With regard to these seven (7) people, the Settlement Administrator is DIRECTED to make contact to clarify whether they intended to exclude themselves from the AWA Class or merely to opt in to the FLSA collective action.

(2) In April 2024, the Settlement Administrator sent notice of the proposed settlement via email to 767 former employees of UniSea, Inc. (“UniSea”). Salinas Decl. at ¶ 13 (docket no. 84). The Settlement Administrator has not, however, provided any

1 information concerning the number or percentage of these emails that bounced. Absent
2 such data, the Court cannot determine whether the service methods used in this matter
provided the best notice practicable under the circumstances.

3 (3) The Settlement Administrator has calculated the net settlement fund using
4 incorrect figures. The parties have agreed to a gross settlement fund of \$600,000. See
Paragraph 20 of the Joint Settlement Agreement and Release dated August 4, 2023
5 (“Settlement Agreement”), Ex. 1 to Dharap Decl. (docket no. 66-1). From this amount,
Class Counsel seek to receive \$180,000 in attorney’s fees and \$2,212.52 in costs, and
6 plaintiff requests a service award of \$5,000. See Pl.’s Mot. (docket no. 71). The
Settlement Administrator proposes to deduct another \$32,000, see Salinas Decl. at ¶ 30 &
7 Ex. L (docket nos. 84 & 84-12), but settlement administration costs were capped at
\$27,950, as reflected in the Court’s prior ruling, see Order at 4 (docket no. 69) (citing
8 Settlement Agreement at ¶ 20), and the notices sent to putative FLSA plaintiffs and
AWHA Class members, see Exs. A, C, & H to Salina Decl. (docket nos. 84-1, 84-3, &
9 84-8). Because the Settlement Administrator has not properly computed the net amount
of the settlement, the amounts allocated to the settlement of the AWHC claim (90%) and
10 to the settlement of the FLSA claim (10%) are also erroneous. This mistake further
affects the determination of the total to be paid to individuals who opted in to the FLSA
11 collective action, as well as the amount, if any, remaining in the FLSA settlement fund,
which must be reallocated to the AWHC settlement fund pursuant to Paragraph 34.c.iii
12 of the Settlement Agreement. The Court is unable to recalculate these latter figures
because neither the Settlement Administrator nor the parties have provided the requisite
13 data about “FLSA Hours Worked,” as defined in Paragraph 22 of the Settlement
Agreement.¹

14 (4) The Settlement Administrator has indicated that the AWHC Class consists
of 1,590 members. This number might need updating as a result of the inquiry required
15 in Paragraph 1, above. In addition, more information is needed to reconcile this figure
with the number of notices distributed to putative FLSA plaintiffs and AWHC Class
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17 ¹ Paragraph 34.c.i of the Settlement Agreement provides: “Each Class Member’s FLSA Hours
Worked will be divided by the sum total of all Class Members’ FLSA Hours Worked during the
18 FLSA Class Period. This calculation will result in a percentage figure for each Class Member,
which will then be multiplied by the FLSA Settlement Amount” This computation yields
19 that “Individual FLSA Payment.” Id. Paragraph 34.c.iii of the Settlement Agreement further
requires that “the Individual FLSA Payments attributable to Class Members who did not opt in to
20 the FLSA Settlement shall be aggregated and reallocated to the AWHC Settlement Amount to be
distributed to AWHC Settlement Class Members.” Thus, the FLSA Hours Worked by the
21 individuals who have opted in to the FLSA collective action and the total FLSA Hours Worked
by all putative FLSA plaintiffs during the FLSA Class Period (March 16, 2018, to November 17,
22 2021) are needed to compute the amount to be reallocated to the settlement of the AWHC claim.

1 members. Assuming that none of the notices sent by the Settlement Administrator were
2 duplicative, the total number of putative FLSA plaintiff and AWH Class members
3 appears to be 1,932.² Whether the difference in figures represents the number of people
4 who worked for UniSea prior to March 16, 2019, and are therefore not members of the
5 AWH Class, remains unclear.

6 (5) **On or before October 17, 2024**, the Settlement Administrator shall file a
7 supplemental declaration setting forth (i) its efforts and the results of communications
8 pursuant to Paragraph 1, above, (ii) the missing information described in Paragraphs 2, 3,
9 and 4, above, and (iii) its revised calculations of the net settlement amount, the FLSA and
10 AWH allocations, and the maximum and average recoveries with respect to the FLSA
11 and AWH claims.

12 (6) The Clerk is directed to send a copy of this Minute Order to all counsel of
13 record.

14 Dated this 3rd day of October, 2024.

15 Ravi Subramanian
16 Clerk

17 s/Laurie Cuaresma
18 Deputy Clerk

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21 ² This figure accounts for (i) 103 individuals who were employed by UniSea in December 2023,
22 (ii) former UniSea employees who were sent notice in December 2023 via U.S. mail (1,014), in
23 April 2024 by email (767), or through text messages (34), and (iii) 14 individuals who could not
be reached at landline (home) numbers on file or for whom no contact information is known.